

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3167 of 1986

Date of decision: 15-9-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HASMUKHRAI UJAMSHIBHAI BHAMBHA

Versus

COMMISSIONER

Appearance:

MR YV SHAH for Petitioner
Mr. J. F. Shah for respondent No.2
Mr. J. R. Nanavati for respondent No.1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/09/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Prayer has been made by the petitioner in this special civil application that the action of the respondent Corporation to fill up the posts of Malaria Inspector by direct recruitment to be declared illegal, as being violative of the terms of settlement. Grievance of the petitioner is that under the settlement the respondent Corporation has agreed to fill up these posts by promotion. Annexure-C is the advertisement under which the Corporation has invited application for the post of Malaria Inspector to be filled by direct recruitment. The counsel for the petitioner contended that it could have been done only with the permission of the Industrial Tribunal, Rajkot.

2. Earlier the matter has come up before this Court in special civil application No.6090/85 and allied matters. After taking into consideration the fact that dispute regarding the modalities for filling up the posts is pending before the Industrial Tribunal, Rajkot, in Reference I.T. No. 49/94, this court disposed of the special civil application in terms that in case the respondent Corporation want to fill in any of such posts by direct recruitment, it will make application to the Industrial Tribunal where reference is pending and will abide by the direction of the Tribunal in that connection. And this Court ordered that if such application is made the same shall be decided within six months from the date of filing of the same. Request has also been made by the counsel for the Corporation that the Industrial Tribunal may be directed to dispose of the reference which is of the year 1979 at an early date. This Court gave direction for deciding the reference as expeditiously as possible, preferably within the outer limit of six months from the date of the judgment, i.e. 13th January, 1986. Though more than 11 years have passed, the counsel for the parties state that still the reference has not been decided. The counsel for the parties state that the reference is pending today before the Industrial Tribunal at Bhavnagar, and there it is registered as Reference (IT) No.8/91 (the original reference is 70/79 in the Industrial Tribunal at Ahmedabad and 49/84 in the Industrial Tribunal at Rajkot).

3. Having heard the learned counsel for the parties,

I am of the opinion that the interest of justice will be met in case this special civil application is disposed of in the same terms as this Court has disposed of the earlier special civil application. It is hereby directed that in case the respondent Corporation wants to fill up any post by direct recruitment it will make application to the Industrial Tribunal and will abide by the direction of the Tribunal in that regard; and if such application is made the same shall be decided by the Tribunal as expeditiously as possible, say within six weeks of filing of the same.

4. It is really shocking that the Industrial Tribunal has not carried out the direction of this Court as contained in the judgment dated 13th January, 1986 given in special civil application No.6909/85 and cognate matters. This court has directed 11 years back to decide this reference within a period of six months. But even after more than six years, and now 11 years, that has not been decided. The counsel for the parties agree that direction may be given to the Industrial Tribunal, Bhavnagar, to dispose of the reference forthwith. No such direction is required to be given as it is the duty and obligation on the part of the Tribunal to carry out the direction of this court as aforesaid. The Industrial Tribunal, Bhavnagar, is directed to carry out the directions of this court contained in the judgment dated 13th January, 1986 given in Special Civil Application No.6909/85 and cognate matters as expeditiously as possible, say within three months from date of receipt of copy of this order. Rule discharged. Interim relief granted earlier stands vacated.

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